tions which were gradually eliminated by changing old rules and introducing new ones, the vast ingenuity displayed by the judges in discarding outgrown precedents and in constantly holding the practice abreast of the exacting demands of the day, are all set before the reader in a most scholarly and interesting way. It might be regretted that the author has not found it advisable to argue more agressively the availability of the fundamental principles of the English system to the needs of the United States. Missionary work along this line seems to the writer of this review a duty incumbent upon all who are qualified to undertake it. But one must, of course, set limits to any book, and within the limits adopted, Mr. Rosenbaum has performed a real service. The dissemination of information about the highly successful court-rule system of procedure will of itself constitute an effective propaganda in its favor, and will help to educate the American public to demand something better than the technical and cumbersome procedure which has long tended to make every American law suit a contest of endurance.

EDSON R. SUNDERLAND.

MAGNA CARTA AND OTHER ADDRESSES, by William D. Guthrie, New York. Columbia University Press, 1916; pp. 282.

Some time ago an English historian whose studies of Domesday Book are a monument to erudition and exact research spoke somewhat disparagingly of excursions into history by lawyers. To his mind it too often involved a desertion of science for mere superstition, with the result that legal history became not a presentation of facts as they were, but what some bygone judge or writer supposed the facts to have been. And in conclusion he said he could but "gaze in wonder at great intellects bowing themselves in homage before the blunders of the past, acute minds submitting to the fetish worship of 'our books' and helpless in the presence of what I have termed 'the long ju-ju of the law'." The address which gives title to the present volume is scarcely a good answer to this stringent criticism.

Mr. Guthrie has sought to perpetuate the numerous myths which have grown up round the Great Charter. For there is a purely fictitious Magna Carta. During the struggles between parliament and the first two Stuarts, perhaps through the influence of Coke, it seized the popular imagination and became to the free Englishman the fundamental guarantee of his liberties. This notion was further developed and fastened upon English lawyers by certain writers, notably Blackstone, in the uncritical eighteenth century. Now this would be harmless enough were it not that it attributes to the charter what is in reality the slow and painful development of six hundred years.

Of this traditional view Mr. Guthrie is an exponent. He assumes that the charter was a great popular document because it was exacted from a king. To him the principle of Habeas Corpus is implicit in it and he even goes so far as to say that "the idea that the fundamental laws of the land * * * were unalterable and that any governmental regulation or edict to the contrary should be treated as void and null is plainly enunciated in the first chapter of Magna Carta." Of course Mr. Guthrie knows that despite some

dicta and the strange doubtful case of Dr. Bonham the English courts have never assumed the power of declaring a statute void because it conflicted with any provision of Magna Carta. But one passes from one surprise to another. *Judicium parium* of chapter 39 refers to trial by jury and *lex terrae* means "the law of the land" or "due process of law." This is to perpetuate an error that even Coke did not make. Probably of the whole charter no single clause is more distinctly reactionary, and in after days these words were worshipped because, as Maitland has pointed out, it was possible to misunderstand them. In brief Mr. Guthrie takes the position that in Magna Carta we have an enunciation of fundamental principles which is valuable for all time. This rests upon the assumption that there is no substantial difference between the social structure of the thirteenth century and that of today; moreover it treats law as something static instead of a growing living organism.

In the remaining nine addresses Mr. Guthrie shows to better advantage. A sturdy conservative, an able defender of the courts in the face of popular criticism, he combines unusual power of exposition with a style which even the most controversial subject cannot rob of its urbanity. He is a vigorous defender of the older conception of constitutional law; he would maintain our political institutions *in statu quo*. Naturally he attacks such innovations as the Workmen's Compensation Act, the referendum, the recall of judges, etc. With much that Mr. Guthrie says the reviewer is in sympathy but, as already indicated, he cannot accept the general point of view. If our legal system is to survive the stress of present conditions, it must be through the efforts of lawyers who combine an intelligent knowledge of the past with vision for the future. And in view of the eminence of Mr. Guthrie's position one has the greater regret that his convictions should lead him to assume the rôle of *laudator temporis acti*.

WILLARD BARBOUR.

VOTING TRUSTS: A CHAPTER IN RECENT CORPORATE HISTORY, by Harry A. Cushing, of the New York Bar, New York. The Macmillan Company, 1915; pp. 215.

This book discusses the subject of Voting Trusts under the titles of the significance of Voting Trusts, their contents, and the law relating thereto, together with forms thereof.

Under the first part there is traced a history of the subject and some of the advantages and disadvantages and the most usual terms of such trusts are pointed out.

The second part is an extensive review of the important provisions in a very large number of recent Voting Trusts, and the third part reviews in a rapid way the decisions relating to the subject, and points out the different views of the courts in reference to the policy and validity of Voting Trusts.

Mr. Cushing is unquestionably favorably inclined toward such trusts so long as their purpose is not clearly illegal; he points out wherein they have been and usually are beneficial, especially in the reorganization of corporations and the adoption of a policy that is likely to insure success through a